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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Afghanistan, Algeria,* Argentina,* Azerbaijan,* Belgium, Bosnia and Herzegovina,* Bulgaria,* China, Cuba, Cyprus,* Ecuador, Egypt, France,* Georgia, Germany, Greece,* Indonesia,* Lebanon,* Luxembourg,* Mexico, Montenegro,* Nigeria, Pakistan, Paraguay,* Philippines, Portugal,* Republic of Moldova,* Romania,* Russian Federation,* Serbia,* Slovenia, Spain, Sudan,* Syrian Arab Republic,* Thailand,* Togo,† Tunisia, Yemen,* State of Palestine:* draft resolution

37/... Right to work

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling all international human rights instruments relevant to the right to work, including the International Covenant on Economic, Social and Cultural Rights, and the 2030 Agenda for Sustainable Development,

Reaffirming also previous Human Rights Council resolutions on the right to work, the most recent of which being resolution 34/14 of 24 March 2017,

Recalling General Assembly resolution 63/199 of 19 December 2008, entitled "International Labour Organization Declaration on Social Justice for a Fair Globalization", and Economic and Social Council resolutions 2007/2 of 17 July 2007, on the role of the United Nations system in providing full and productive employment and decent work for all, and 2008/18 of 24 July 2008, on promoting full employment and decent work for all,

Recalling also the International Labour Organization Declaration on Fundamental Principles and Rights at Work and the follow-up thereto, adopted by the International Labour Conference at its eighty-sixth session, on 18 June 1998, the Declaration on Social Justice for a Fair Globalization, adopted by the Conference at its ninety-seventh session, on 10 June 2008, and the Global Jobs Pact, adopted by the Conference at its ninety-eighth session, on 19 June 2009,

Recognizing the primary role, mandate, expertise and specialization of the International Labour Organization within the United Nations system in relation to the promotion of decent work and full and productive employment for all, recalling its

* State not a member of the Human Rights Council.
† On behalf of the States Members of the United Nations that are members of the Group of African.

initiatives and activities in that regard, including the Decent Work Agenda, and the centenary initiatives of the Organization,

Acknowledging the work of the treaty bodies, in particular the Committee on Economic, Social and Cultural Rights, in relation to the right to work,

Acknowledging also the work of United Nations agencies, funds and programmes, in particular the International Labour Organization, in supporting the efforts of States to promote inclusive, sustained economic growth, full and productive employment and decent work for all and the full realization of the right to work, and recognizing the important contributions by the United Nations Entity for Gender Equality and the Empowerment of Women in relation to the realization of the right to work for women,

Reaffirming that all human rights, civil, cultural, economic, political and social rights, including the right to development, are universal, indivisible, interdependent, interrelated and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Emphasizing that States should undertake to guarantee that the right to work is to be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status,

Emphasizing also that the right to work is not only essential for realizing other human rights but also an inseparable and inherent part of human dignity, and is important in ensuring the satisfaction of human needs and values that are central to a dignified life,

Recognizing that full and productive employment and decent work for all are key elements of poverty-reduction strategies that facilitate the achievement of the internationally agreed development goals, in particular the 2030 Agenda for Sustainable Development, and that they require a multidimensional focus that incorporates Governments, representatives of employers and workers, the private sector, national human rights institutions, civil society organizations and international organizations, in particular the agencies of the United Nations system and international financial institutions,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on the relationship between the realization of the right to work and the implementation of relevant targets of the Sustainable Development Goals;[1]

2. *Reaffirms*, as enshrined in the International Covenant on Economic, Social and Cultural Rights, the right to work, which includes the right of everyone to the opportunity to gain his or her living by work that he or she freely chooses or accepts, and that States should take appropriate steps to progressively achieve the full realization of that right, including technical and vocational guidance and training programmes, policies and techniques, to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding the fundamental political and economic freedoms of the individual;

3. *Also reaffirms*, as enshrined in the International Covenant on Economic, Social and Cultural Rights, the right of everyone to the enjoyment of just and favourable conditions of work that ensure, in particular, remuneration that provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; a decent living for themselves and their families; safe and healthy working conditions; equal opportunity for everyone to be promoted in his or her employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, and remuneration for public holidays;

4. *Further reaffirms* that States have the primary responsibility to ensure the full realization of all human rights and to endeavour to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to progressively achieving the full

[1] A/HRC/37/32.

realization of the right to work by all appropriate means, including in particular the adoption of legislative measures;

5. *Recognizes* that ensuring equality and non-discrimination in access to work is crucial in addressing the social prejudices and disadvantages that might exist in the labour market;

6. *Stresses* that the freedom to work, which is included in the right to work, entails the right to pursue professional options under equal conditions, especially for those whose freedom is frequently compromised by discriminatory legal provisions or forced labour, in particular women and persons with disabilities;

7. *Also stresses* that States, as provided for by the relevant international legal instruments, should prohibit forced and compulsory labour and punish perpetrators for its use in all its forms;

8. *Emphasizes* that the right to work entails, inter alia, the right not to be deprived of work arbitrarily and unfairly, and that States, in accordance with the relevant obligations in relation to the right to work, are required to put in place appropriate measures ensuring the protection of workers against unlawful dismissal;

9. *Underscores* the equal right of men and women to the enjoyment of all human rights, including the right to work, and that equal access to work is pivotal to the full enjoyment of all human rights by women, while recognizing that women are on many occasions subject to discrimination in the context of realizing their rights in that regard on an equal basis with men and are disproportionately exposed to the most precarious working conditions, including work in the informal economy, limited or no legal protection, lower levels of representation in leadership and decision-making positions, lower levels of remuneration and involuntary temporary and part-time employment, and are disproportionately burdened with unpaid care and domestic work within the household and the family, which may constitute on many occasions a barrier to women's greater involvement in the labour market;

10. *Recognizes* that progress has been made, yet is deeply concerned that many persons with disabilities continue to face multiple and intersecting forms of inequality and discrimination, including the lack of reasonable accommodation, which represent significant obstacles in exercising their right to work on an equal basis with others, and that they are frequently subject to less favourable conditions of pay, precarious, often informal working conditions and poor career prospects in a context of environmental, social and economic barriers in their access to work and within work, and in education and training, which results on many occasions in neglect of their potential and restrictions on opportunities to earn a living through their capabilities;

11. *Underscores* the responsibility of the State to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development, and to take additional measures to prevent the engagement of children in the worst form of child labour;

12. *Expresses concern* that, according to the report of the International Labour Organization *World Employment Social Outlook: Trends 2018*, many countries continue to report high rates of labour underutilization, with large shares of discouraged workers and growing incidence of involuntary part-time employment, affecting in large part young people;

13. *Notes with concern* that, according to the report of the International Labour Organization *Global Employment Trends for Youth 2017*, although there has been a modest economic recovery, youth unemployment remains high and employment quality a concern, and young people are three times as likely as adults to be unemployed, which constitutes a serious global problem;

14. *Expresses deep concern* that inequalities are widening and there are not enough jobs, including quality jobs, and emphasizes that full and productive employment and decent work for young people play an important role in their empowerment and can contribute to, inter alia, the prevention of extremism, terrorism and social, economic and political instability, thus contributing to sustainable development and peace;

15. *Stresses* that the fundamental importance of equal opportunities, education, technical and vocational training, and lifelong learning opportunities and guidance for all, including for women, young people and persons with disabilities, are necessary for the realization of the right to work;

16. *Encourages* States to effectively implement the 2030 Agenda for Sustainable Development, including its Goal 8 on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, and its targets;

17. *Underscores* that, in considering the relationship between the realization of the right to work and the implementation of the relevant Sustainable Development Goals and targets, it is important to recognize that the Goals and targets are universal and interlinked and their achievement, in accordance with international human rights law and consistent with the commitment that no one is left behind, can therefore contribute to the realization of the right to work for all;

18. *Stresses* that all States committed, in the 2030 Agenda, to leaving no one behind and to reaching the furthest behind first, and, in order to promote the achievement of that principle, States are encouraged to create conditions for sustainable, inclusive and sustained economic growth and decent work for all and to promote the employment of young people and women's economic empowerment;

19. *Also stresses* that the Sustainable Development Goals and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development promote inclusive and sustained economic growth, higher levels of productivity and technological innovation, and encourage entrepreneurship and job creation, which can be effective measures to eradicate extreme poverty and hunger, forced labour, contemporary forms of slavery and human trafficking and, to ensure that no one is left behind, bearing these targets in mind, the goal is to achieve full and productive employment and decent work for all women and men by 2030;

20. *Recognizes* that employment should be a central objective of economic and social policies at the national, regional and international levels for the sustainable eradication of poverty and for providing an adequate standard of living, and emphasizes in that regard the importance of relevant and inclusive social protection measures, including social protection floors;

21. *Also recognizes* the fundamental importance of international cooperation, including through technical cooperation, capacity-building and the exchange of relevant lessons learned and good practices, in advancing efforts towards the full realization of the right to work through inclusive, sustainable economic growth, full and productive employment and decent work for all;

22. *Calls upon* States to put in place cohesive and comprehensive policies and to take the legislative and administrative measures necessary for the full realization of the right to work for all, including women by, inter alia, considering to undertake policy commitments and measures to obtain full and productive employment and decent work for all, including through the establishment, where appropriate, of institutions for that purpose and by further strengthening tools, such as job services and social dialogue mechanisms, while paying continuous attention to professional and technical training and initiatives to foster small and medium-sized enterprises, cooperatives and start-ups, including those that are owned by women, as well as considering investing in infrastructure, services and social protection systems to allow for and to promote equitable sharing of care responsibilities between men and women;

23. *Highlights* the vital role of the private sector in generating new investments, job opportunities and financing for development and in advancing efforts towards the full realization of the right to work and the promotion of inclusive, sustained economic growth, full and productive employment and decent work for all, noting the multi-year strategy of the United Nations Global Compact to drive business awareness and action in support of achieving the Sustainable Development Goals and Addis Ababa Action Agenda by 2030, and noting the need to promote the implementation of the Guiding Principles on Business and Human Rights, as well as the Women's Empowerment Principles established by the United Nations Entity for Gender Equality and the Empowerment of Women, as applicable;

24. *Recognizes* the important contribution of workers' and employers' organizations in the area of full and productive employment and decent work for all, and the importance of promoting equitable representation, participation and leadership in such organizations;

25. *Underscores* that there is an urgent need to create an environment at the national and international levels that is conducive to the attainment of full and productive employment and decent work for all as a foundation for sustainable development, and that an environment that supports investment, growth and entrepreneurship is essential to the creation of new job opportunities for women and men, and reaffirms that opportunities for all to obtain productive work in conditions of freedom, equity, security and human dignity are essential to ensure the eradication of hunger and poverty, the realization of equality between women and men, the improvement of economic and social well-being for all, the achievement of sustained, inclusive and sustainable economic growth and sustainable development;

26. *Calls upon* States to continue their efforts to prevent and combat all forms of discrimination and violence, including sexual harassment at the workplace, including by adopting and implementing laws and policies and through training, awareness-raising and support for women's access to justice with respect to violence and sexual harassment, bearing in mind that these continue to be among the factors that have an adverse impact on the realization of the right to work for women;

27. *Encourages* States to take all appropriate measures to prohibit discrimination in all matters concerning access to employment and job opportunities, including in relation to equal conditions of pay, hiring and career advancement, and to pay particular attention to women facing multiple intersecting forms of inequality and discrimination;

28. *Requests* the United Nations High Commissioner for Human Rights to prepare an analytical report, in consultation with States, relevant United Nations agencies, funds and programmes, particularly the International Labour Organization, and the treaty bodies, the special procedures, civil society, national human rights institutions and other stakeholders, on the relationship between the realization of the right to work and the enjoyment of all human rights by young people, with an emphasis on their empowerment, in accordance with States' respective obligations under international human rights law, to indicate the major challenges and best practices in that regard, and to submit the report to the Human Rights Council prior to its fortieth session;

29. *Decides* to remain seized of the matter.

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Human Rights Council
Thirty-seventh session
26 February–23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Albania,* Andorra,* Australia, Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile, Croatia, Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* France,* Georgia, Germany, Greece,* Hungary, Iceland,* Ireland,* Israel,* Italy,* Japan, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands,* Norway,* Poland,* Portugal,* Republic of Korea, Republic of Moldova,* Romania,* Slovakia, Slovenia, Spain, Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

37/... Situation of human rights in the Democratic People's Republic of Korea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Recalling all previous resolutions adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in the Democratic People's Republic of Korea, including Council resolution 34/24 of 24 March 2017 and Assembly resolution 72/188 of 19 December 2017, and urging the implementation of those resolutions,

Bearing in mind paragraph 3 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and annexes thereto,

Stressing the importance of following up on the recommendations contained in the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea,[1] which was welcomed by both the Human Rights Council and the General Assembly, and transmitted to the relevant bodies of the United Nations, including the Security Council,

* State not a member of the Human Rights Council.
[1] A/HRC/25/63.

Deeply concerned at the systematic, widespread and gross human rights violations in the Democratic People's Republic of Korea that, in many instances, constitute crimes against humanity, and at the impunity of perpetrators, as described in the report of the commission of inquiry,

Recalling the responsibility of the Democratic People's Republic of Korea to protect its population from crimes against humanity, and noting General Assembly resolution 72/188, in which the Assembly recalled that the commission of inquiry had urged the leadership of the Democratic People's Republic of Korea to prevent and suppress crimes against humanity and to ensure that perpetrators are prosecuted and brought to justice,

Concerned that the precarious humanitarian situation in the country is exacerbated by the failure of the Government of the Democratic People's Republic of Korea to provide humanitarian agencies with free and unimpeded access to all populations in need and the ability to monitor appropriately the entire distribution process, and by its national policies that, among others, prioritize military spending, in particular nuclear and ballistic missile development, over citizens' access to food,

Acknowledging Security Council resolution 2397 (2017) of 22 December 2017, in which the Council noted that 41 per cent of the population of the Democratic People's Republic of Korea was undernourished, and General Assembly resolution 72/188, in which the Assembly noted with concern the findings of the United Nations that well over half of the people in the Democratic People's Republic of Korea suffered from major insecurities in food and medical care, including a very large number of pregnant and lactating women and children under 5 who were at risk of malnutrition, and nearly a quarter of its total population was suffering from chronic malnutrition, condemned the Democratic People's Republic of Korea for diverting its resources into pursuing nuclear weapons and ballistic missiles over the welfare of its people, and emphasized the necessity for the Democratic People's Republic of Korea to respect and ensure the welfare and inherent dignity of the people in the country, as referred to by the Security Council in its resolutions 2321 (2016) of 30 November 2016, 2371 (2017) of 5 August 2017, 2375 (2017) of 11 September 2017 and 2397 (2017),

Reaffirming that it is the responsibility of the Government of the Democratic People's Republic of Korea to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population, including by ensuring equal access to adequate food, as well as, among others, freedom of religion or belief, freedom of expression and freedom of association and assembly,

Recognizing that particular risk factors affect women, children, persons with disabilities and the elderly, and the need to ensure the full enjoyment of all their human rights and fundamental freedoms by them against neglect, abuse, exploitation and violence, taking note in this regard of the concluding observations of the Committee on the Elimination of Discrimination against Women on the combined second to fourth periodic reports of the Democratic People's Republic of Korea[2] and the concluding observations of the Committee on the Rights of the Child on the fifth periodic report of the Democratic People's Republic of Korea,[3]

Noting with appreciation the visit of the Special Rapporteur on the rights of persons with disabilities to the Democratic People's Republic of Korea, encouraging the Democratic People's Republic of Korea to implement all of the recommendations contained in the report of the Special Rapporteur on her visit to the Democratic People's Republic of Korea, submitted to the Human Rights Council at its thirty-seventh session,[4] and noting the participation of the Democratic People's Republic of Korea in the Paralympic Winter Games, held in PyeongChang, Republic of Korea,

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[2] CEDAW/C/PRK/CO/2-4.

[3] CRC/C/PRK/CO/5.

[4] A/HRC/37/56/Add.1.

Acknowledging the participation of the Democratic People's Republic of Korea in the second universal periodic review process, noting the acceptance by the Government of the Democratic People's Republic of Korea of 113 out of the 268 recommendations contained in the outcome of the review and its stated commitment to implement them and to look into the possibility of implementing a further 58 recommendations, and emphasizing the importance of the implementation of the recommendations in order to address the grave human rights violations in the country,

Recognizing the important work of the treaty bodies in monitoring the implementation of international human rights obligations, and emphasizing the need for the Democratic People's Republic of Korea to comply with its human rights obligations and to ensure regular and timely reporting to the treaty bodies,

Noting the urgency and importance of the issue of international abductions and of the immediate return of all abductees, expressing grave concern at the lack of positive action by the Democratic People's Republic of Korea since the investigations on all the Japanese nationals commenced on the basis of the government-level consultations held between the Democratic People's Republic of Korea and Japan in May 2014, and expecting the resolution of all issues related to the Japanese nationals, in particular the return of all abductees, to be achieved at the earliest possible date,

Noting also the importance of dialogue, including inter-Korean dialogue, for the improvement of the human rights and humanitarian situation in the Democratic People's Republic of Korea,

Welcoming the momentum of inter-Korean dialogue created on the occasion of the participation of the Democratic People's Republic of Korea in the Olympic Winter Games, held in PyeongChang, and the recent progress in inter-Korean relations,

Noting the urgency and importance of the issue of separated families and the requests of the Republic of Korea for confirmation of the fate of family members, and allowing the exchange of letters, visits to their hometowns and the holding of further reunions on a larger scale and a regular basis,

Reaffirming the importance of States engaging fully and constructively with the Council, including with the universal periodic review process and other mechanisms of the Council, for the improvement of their situation of human rights,

1. *Condemns in the strongest terms* the long-standing and ongoing systematic, widespread and gross human rights violations and other human rights abuses committed in and by the Democratic People's Republic of Korea, and expresses its grave concern at the detailed findings made by the commission of inquiry in its report, including:

(a) The denial of the right to freedom of thought, conscience and religion, and of the rights to freedom of opinion, expression and association, both online and offline, which is enforced through an absolute monopoly on information and total control over organized social life, and arbitrary and unlawful State surveillance that permeates the private lives of all citizens;

(b) Discrimination based on the *songbun* system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion, discrimination against women, including unequal access to employment, discriminatory laws and regulations, and violence against women;

(c) Violations of all aspects of the right to freedom of movement, including forced assignment to State-designated places of residence and employment, often based on the *songbun* system, and denial of the right to leave one's own country;

(d) Systematic, widespread and grave violations of the right to food and related aspects of the right to life, exacerbated by widespread hunger and malnutrition;

(e) Violations of the right to life and acts of extermination, murder, enslavement, torture, imprisonment, rape and other grave forms of sexual violence and persecution on political, religious and gender grounds in political prison camps and

ordinary prisons, and the widespread practice of collective punishment with harsh sentences imposed on innocent individuals;

(f) Systematic abduction, denial of repatriation and subsequent enforced disappearance of persons, including those from other countries, on a large scale and as a matter of State policy;

2. *Urges* the Government of the Democratic People's Republic of Korea to acknowledge its crimes and human rights violations in and outside of the country, and to take immediate steps to end all such crimes and violations through, inter alia, the implementation of relevant recommendations in the report of the commission of inquiry and General Assembly resolution 72/188, including, but not limited to, the following steps:

(a) To ensure the right to freedom of thought, conscience and religion, and the rights to freedom of opinion, expression and association, both online and offline, including by permitting the establishment of independent newspapers and other media;

(b) To end discrimination against citizens, including State-sponsored discrimination based on the *songbun* system, and to take immediate steps to ensure gender equality and to protect women from gender-based violence;

(c) To ensure the right to freedom of movement, including the freedom to choose one's place of residence and employment;

(d) To promote equal access to food, including through full transparency regarding the provision of humanitarian assistance so that such assistance is genuinely provided to vulnerable persons, including individuals in detention;

(e) To halt immediately all human right violations relating to prison camps, including the practice of forced labour and the use of torture and gender-based violence, to dismantle all political prison camps and to release all political prisoners, to immediately cease the practice of the arbitrary and summary execution of persons in custody, and to ensure that justice sector reforms provide protections for a fair trial and due process;

(f) To resolve the issue of all persons who have been abducted or otherwise forcibly disappeared, and their descendants, in a transparent manner, including by ensuring their immediate return;

(g) To ensure the reunion of separated families across the border;

(h) To abolish immediately the practice of guilt-by-association punishment;

(i) To ensure that everyone within the territory of the Democratic People's Republic of Korea enjoys the right to liberty of movement and is free to leave the country, including for the purpose of seeking asylum outside the Democratic People's Republic of Korea, without interference by the authorities of the Democratic People's Republic of Korea;

(j) To provide nationals of other countries detained in the Democratic People's Republic of Korea with protections, including freedom of communication with and access to consular officers, in accordance with the Vienna Convention on Consular Relations, to which the Democratic People's Republic of Korea is a party, and any other necessary arrangements to confirm their status and to communicate with their families;

3. *Recalls* General Assembly resolution 72/188, in which the Assembly expressed its very serious concern at the violations of workers' rights, including the right to freedom of association and effective recognition of the right to collective bargaining, the right to strike and the prohibition of the economic exploitation of children and of any harmful or hazardous work of children, as well as the exploitation of workers sent abroad from the Democratic People's Republic of Korea to work under conditions that reportedly amount to forced labour;

4. *Also recalls* paragraph 11 of Security Council resolution 2371 (2017), paragraph 17 of Council resolution 2375 (2017) and, in particular, paragraph 8 of Council

resolution 2397 (2017), in which it decided that Member States should repatriate to the Democratic People's Republic of Korea all nationals of the Democratic People's Republic of Korea earning income in their jurisdictions and all Democratic People's Republic of Korea government safety oversight attachés monitoring Democratic People's Republic of Korea workers abroad immedi ely but no later than 24 months from 22 December 2017, unless the particular Member State determines that the national is a national of that Member State or is prohibited from repatriation under applicable national and international law, including international refugee law and international human rights law, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations or the Convention on the Privileges and Immunities of the United Nations, and urges the Democratic People's Republic of Korea to promote, respect and protect the human rights of workers, including workers repatriated to the Democratic People's Republic of Korea;

5. *Recalls* paragraph 4 of General Assembly resolution 72/188, in which the Assembly underscored its very serious concern regarding reports of torture, summary executions, arbitrary detention, abductions and other forms of human rights violations and abuses that the Democratic People's Republic of Korea commits against citizens of other countries within and outside of its territory;

6. *Reiterates its deep concern* at the commission's findings concerning the situation of refugees and asylum seekers returned to the Democratic People's Republic of Korea, and other citizens of the Democratic People's Republic of Korea who have been repatriated from abroad and made subject to sanctions, including internment, torture, cruel, inhumane and degrading treatment, sexual violence, enforced disappearance or the death penalty, and in this regard strongly urges all States to respect the fundamental principle of non-refoulement, to treat humanely those who seek refuge and to ensure unhindered access to the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights with a view to protecting the human rights of those who seek refuge, and once again urges State parties to comply with their obligations under international human rights law and the Convention relating to the Status of Refugees and the Protocol thereto in relation to persons from the Democratic People's Republic of Korea who are covered by those instruments;

7. *Stresses and restates its grave concern* about the commission's finding that the body of testimony gathered and the information received provided reasonable grounds to believe that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State for decades and by institutions under the effective control of its leadership; these crimes against humanity entail extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation;

8. *Stresses* that the authorities of the Democratic People's Republic of Korea have failed to prosecute those responsible for crimes against humanity and other human rights violations, and encourages all States, the United Nations system, including relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and other stakeholders to cooperate with accountability efforts, especially efforts taken by the Office of the United Nations High Commissioner for Human Rights, and to ensure that these crimes do not remain unpunished;

9. *Welcomes* General Assembly resolution 72/188, in which the Assembly encouraged the Security Council to continue its consideration of the relevant conclusions and recommendations of the commission of inquiry and take appropriate action to ensure accountability, including through consideration of referral of th situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the further development of sanctions in order to target effectively those who appear to be most responsible for human rights violations that the commission has said may constitute crimes against humanity;

10. *Also welcomes* the decision of the Security Council to hold a fourth Council meeting on 11 December 2017, following the ones held in December 2014, December 2015 and December 2016, during which the situation of human rights in the Democratic People's Republic of Korea was discussed, in the light of the serious concerns expressed in the present resolution, and looks forward to the continued and more active engagement of the Council on this matter;

11. *Commends* the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for the activities undertaken to date and his continued efforts in the conduct of his mandate despite the lack of access to the country;

12. *Welcomes* the report of the Special Rapporteur;[5]

13. *Recalls* the recommendations of the commission of inquiry and General Assembly resolution 70/172 of 17 December 2015 and reiterates the importance of maintaining the grave human rights situation in the Democratic People's Republic of Korea high on the international agenda, including through sustained communications, advocacy and outreach initiatives, and requests the Office of the High Commissioner to strengthen those activities;

14. *Welcomes* steps taken to strengthen the capacity of the Office of the High Commissioner, including its field-based structure in Seoul, to allow the implementation of relevant recommendations made by the group of independent experts on accountability in its report aimed at strengthening current monitoring and documentation efforts, establishing a central information and evidence repository, and having experts in legal accountability assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process, and strongly encourages the Office of the High Commissioner to expedite the process for strengthening its capacity;

15. *Reiterates* the request made by the Human Rights Council in its resolution 34/24 that the United Nations High Commissioner for Human Rights submit to it at its fortieth session a full report on the implementation of the recommendations made by the group of independent experts on accountability in its report to the Council at its thirty-fourth session;[6]

16. *Decides* to extend the mandate of the Special Rapporteur, in accordance with Human Rights Council resolution 34/24, for a period of one year;

17. *Calls again upon* all parties concerned, including United Nations bodies, to consider implementation of the recommendations made by the commission of inquiry in its report in order to address the dire situation of human rights in the Democratic People's Republic of Korea;

18. *Encourages* the continuing endeavours of the field-based structure of the Office of the High Commissioner in Seoul, and welcomes its regular reports to the Council and invites the High Commissioner to provide the Council with regular updates on the situation of human rights in the Democratic People's Republic of Korea;

19. *Calls upon* all States to undertake to ensure that the field-based structure of the Office of the High Commissioner can function with independence, that it has sufficient resources to fulfil its mandate, that it enjoys full cooperation with relevant Member States and that it is not subjected to any reprisals or threats;

20. *Requests* the Office of the High Commissioner to report on its follow-up efforts in the regular annual report of the Secretary-General submitted to the General Assembly on the situation of human rights in the Democratic People's Republic of Korea;

21. *Requests* the Special Rapporteur to submit regular reports to the Human Rights Council and to the General Assembly on the implementation of his mandate,

[5] A/HRC/37/69.

[6] A/HRC/34/66 and Add.1.

including on the follow-up efforts made in the implementation of the recommendations of the commission of inquiry;

22. *Urges* the Government of the Democratic People's Republic of Korea, through continuous dialogues, to invite and to cooperate fully with all special procedure mandate holders, especially the Special Rapporteur, to give the Special Rapporteur and supporting staff unrestricted access to visit the country, and to provide them with all information necessary to enable them to fulfil such a mandate, and also to promote technical cooperation with the Office of the High Commissioner;

23. *Encourages* the United Nations system, including its specialized agencies, States, regional intergovernmental organizations, interested institutions, independent experts and non-governmental organizations to develop constructive dialogue and cooperation with special procedure mandate holders, including the Special Rapporteur, and the field-based structure of the Office of the High Commissioner;

24. *Encourages* all States, the United Nations Secretariat, including relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and engaged business enterprises and other stakeholders towards which the commission of inquiry has directed recommendations, to take forward those recommendations;

25. *Encourages* the United Nations system as a whole to continue to address the grave situation of human rights in the Democratic People's Republic of Korea in a coordinated and unified manner;

26. *Encourages* all States that have relations with the Democratic People's Republic of Korea to use their influence to encourage it to take immediate steps to end all human rights violations, including by closing political prison camps and undertaking profound institutional reforms;

27. *Requests* the Secretary-General to provide the Special Rapporteur and the Office of the High Commissioner with regard to the field-based structure with all the assistance and adequate staffing necessary to carry out the mandate effectively, and to ensure that the mandate holder receives the support of the Office of the High Commissioner;

28. *Decides* to transmit all reports of the Special Rapporteur to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Afghanistan, Andorra,* Argentina,* Armenia,* Australia, Belgium, Bosnia and Herzegovina,* Bolivia (Plurinational State of),* Bulgaria,* Chile, Croatia, Cyprus,* Ethiopia, Finland,* France,* Georgia, Germany, Greece,* Honduras,* Iraq, Ireland,* Italy,* Lebanon,* Luxembourg,* Mali,* Malta,* Mexico, Monaco,* Montenegro,* New Zealand,* Norway,* Paraguay,* Peru, Poland,* Portugal,* Romania,* Serbia,* Slovakia, Slovenia, Sweden,* Switzerland, Ukraine, United States of America: draft resolution

37/... Cultural rights and the protection of cultural heritage

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, the Declaration on the Right to Development and all relevant international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming the human rights and fundamental freedoms enshrined therein,

Recalling also General Assembly resolution 60/251 of 15 March 2006, by which the Assembly established the Human Rights Council and in which it stated that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Recalling further Human Rights Council resolution 33/20 of 30 September 2016,

Convinced that damage to cultural heritage, both tangible and intangible, of any people constitutes damage to the cultural heritage of humanity as a whole,

Recognizing that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of cultural heritage belongs primarily to the State on whose territory it is situated,

Noting that the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights, in particular the right of

* State not a member of the Human Rights Council.

everyone to take part in cultural life, including the ability to access and enjoy cultural heritage,

Reaffirming that safeguarding the enjoyment of cultural rights may form a crucial part of the response to many current global challenges, including to the scourge of terrorism,

Reaffirming also that addressing the destruction of tangible and intangible cultural heritage needs to be holistic, encompassing all regions, contemplating both prevention and accountability, focusing on acts by State and non-State actors in both conflict and non-conflict situations, and terrorist acts,

Recognizing that the violation or abuse of the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage, may threaten stability, social cohesion and cultural identity, and constitutes an aggravating factor in conflict and a major obstacle to dialogue, peace and reconciliation,

Strongly condemning all acts of unlawful destruction of cultural heritage, which are often committed during or in the aftermath of armed conflicts around the world, or as a result of terrorist attacks,

Noting with deep concern the organized looting, smuggling and theft of and illicit trafficking in cultural property that could undermine the full enjoyment of cultural rights, and are contrary to international law and may, in some instances, generate funds for the financing of terrorism,

Acknowledging the importance of early restoration of the full enjoyment of cultural rights to individuals affected by conflict, and in particular to those who are displaced,

Emphasizing the important role that the Human Rights Council can play, in concert with all other relevant international actors, in global efforts to protect, restore and preserve cultural heritage, with a view to promoting universal respect for cultural rights by all,

Recognizing the important contribution that United Nations peacekeeping missions can make in the protection of cultural heritage and the safeguarding of the enjoyment of cultural rights, both during and in the aftermath of armed conflicts,

Acknowledging the important role of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization and the World Customs Organization in international efforts to combat and prevent damage or destruction, organized looting, smuggling and theft of and illicit trafficking in cultural property, and to restore damaged property,

Welcoming all initiatives, whether by States, institutions or private persons, for the voluntary return of cultural property, and in particular those concerning cultural property that has been illicitly appropriated,

Recognizing that technology, and in particular the Internet, may enhance cultural creation and dissemination by enabling new forms of curating and sharing, and engagement with, cultural heritage,

Taking note with appreciation of the report of the United Nations High Commissioner for Human Rights on the intersessional seminar on cultural rights and the protection of cultural heritage,[1] and noting the areas identified therein as needing more attention, such as the protection of the cultural heritage of minority communities from intentional destruction aimed at erasing evidence of their presence and the engagement of indigenous peoples and local communities in international debates on cultural heritage protection,

Reaffirming the importance of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and its implementation, and in the context of its

[1] A/HRC/37/29.

twentieth anniversary, highlighting in particular the important contribution made by cultural rights defenders involved in the protection of the cultural heritage of all humankind,

1. *Calls upon* all States to respect, promote and protect the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage;

2. *Urges* all parties to armed conflicts to refrain from any unlawful military use or targeting of cultural property, in full conformity with their obligations under international humanitarian law;

3. *Encourages* States that have not yet become a party to all relevant treaties that provide for the protection of cultural property to consider doing so;

4. *Calls* for enhanced international cooperation in preventing and combating the organized looting, smuggling and theft of and illicit trafficking in cultural objects and in restoring stolen, looted or trafficked cultural property to its countries of origin, and invites States to take measures in this regard at the national level to make effective use to this end of relevant tools and databases developed under the auspices of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization and the World Customs Organization, within the scope of their respective mandates;

5. *Encourages* the strengthening of dialogue and cooperation between relevant international organizations and States affected by the organized looting, theft and smuggling of and illicit trafficking in cultural property, including through the provision of support and technical assistance aimed at enhancing their national capacities to restore, protect and preserve cultural heritage and property;

6. *Calls for* the development of partnerships between competent national authorities and civil society, in particular grass-roots institutions, with the aim of creating a safe and enabling environment to enhance the protection of cultural rights and to promote the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage;

7. *Also calls for* the identification of innovative ways and best practices, at the national, regional and international levels, for the prevention of violations and abuses of cultural rights, and for participatory and inclusive approaches to the prevention and mitigation of damage caused to cultural heritage, both tangible or intangible;

8. *Further calls for* the recognition of the protection of cultural heritage as an important component of humanitarian assistance, including in armed conflict and with regard also to displaced populations and for enhanced cooperation between the Office of the United Nations High Commissioner for Human Rights, the mandate of the Special Rapporteur in the field of cultural rights, the United Nations Educational, Scientific and Cultural Organization and other relevant agencies and stakeholders, with a view to mainstreaming the protection of cultural heritage into humanitarian actions, security strategies and peacebuilding processes, and in post-conflict reconciliation initiatives;

9. *Encourages* States to adopt a gender-sensitive and inclusive approach to the protection of cultural heritage and the safeguardi g of cultural rights that is respectful of cultural diversity and includes consideration of human rights issues of minority communities and indigenous peoples;

10. *Calls for* the safety and security of cultural rights defenders involved in the protection of cultural heritage to be protected, including by investigating and, where appropriate, bringing to justice anyone alleged to have harmed them;

11. *Invites* States to adopt effective strategies to prevent the destruction of cultural heritage by, inter alia, ensuring accountability documenting the cultural heritage within their jurisdiction, including through digital means, implementing educational programmes on the importance of cultural heritage and cultural rights and training military forces and humanitarian actors in all relevant rules concerning the protection of cultural heritage, both during and in the aftermath of armed conflict;

12. *Encourages* States to address limitations of cultural rights, to take the measures necessary to prevent the destruction of historic monuments, works of art or places of worship that constitute the cultural or spiritual heritage of peoples, both in conflict and non-conflict situations, and to promote respect for cultural diversity;

13. *Also encourages* States, and the international community, the United Nations and civil society to consider implementing the relevant recommendations contained in the report of the High Commissioner on the intersessional seminar on cultural rights and the protection of cultural heritage,[1] as well as those made by the Special Rapporteur in the field of cultural rights in her reports presented to the Human Rights Council[2] and to the General Assembly;[3]

14. *Requests* the High Commissioner:

(a) To convene, before the forty-fourth session of the Human Rights Council, and in collaboration with the Special Rapporteur in the field of cultural rights, relevant agencies and other stakeholders, a two-day workshop in Geneva with the participation of experts from all regions of the world to develop appropriate tools for the dissemination of an approach to the protection, restoration and preservation of cultural heritage that promotes universal respect for cultural rights by all;

(b) To submit to the Human Rights Council at its forty-sixth session a report thereon;

15. *Decides* to remain seized of the matter.

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[2] A/HRC/31/59 and Corr.1.

[3] A/71/317.